

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

SANDI BIRNE,

Plaintiff,

v.

Case No.: 2:17-cv-400-FtM-38MRM

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

_____ /

OPINION AND ORDER¹

Before the Court is United States Magistrate Judge Mac R. McCoy's Report and Recommendation. ([Doc. 28](#)). Judge McCoy recommends granting Plaintiff Sandi Birne's Motion for Attorney's Fees and awarding her counsel \$21,909.75 in attorney's fees. Neither party objects to the Report and Recommendation, and the time to do so has expired.

A district judge "may accept, reject, or modify in whole or in part, the findings or recommendations made by the magistrate judge." [28 U.S.C. § 636\(b\)\(1\)](#). The district judge "shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which

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objection is made.” *Id.* And “[t]he judge may also receive further evidence or recommit the matter to the magistrate judge with instructions.” *Id.*

After examining the file independently and upon considering Judge McCoy’s findings and recommendations, the Court accepts and adopts the Report and Recommendation.

Accordingly, it is


ORDERED:

(1) United States Magistrate Judge Mac R. McCoy’s Report and Recommendation ([Doc. 28](#)) is **ACCEPTED and ADOPTED** and the findings are incorporated herein.

- a. Plaintiff’s Uncontested Petition for Attorney’s Fees is **GRANTED** ([Doc. 26](#)).
- b. The Commissioner of Social Security must **PAY** Plaintiff’s counsel **\$21, 909.75** in attorney’s fees.
- c. Upon Plaintiff’s counsel’s receipt of these fees, Plaintiff’s counsel must **REMIT** the **\$8,032.87** prior fee award under the EAJA to Plaintiff.
- d. If applicable, the Commissioner of Social Security must also **PAY** directly to Plaintiff any remaining portion of the past-due benefits previously withheld pending the Court’s determination of attorney’s fees.

(2) The Clerk is **DIRECTED** to enter an amended judgment awarding **\$21,909.75** to Plaintiff's counsel for attorney's fees.

DONE and **ORDERED** in Fort Myers, Florida on October 19, 2020.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record